

ASSEMBLY BILL

No. 1613

Introduced by Assembly Member Donnelly

February 8, 2012

An act to amend Section 44015 of the Health and Safety Code, and to amend Section 4000.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as introduced, Donnelly. Motor vehicle inspection and maintenance program.

Existing law establishes a motor vehicle inspection and maintenance (smog-check) program, administered by the Department of Consumer Affairs and the State Air Resources Board, which provides for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law requires the Department of Motor Vehicles (DMV) to require, upon initial registration, and, except as specified, upon transfer of ownership and registration, of a motor vehicle, and upon registration of a motor vehicle previously registered outside this state that is subject to those provisions, a valid certificate of compliance or a certificate of noncompliance, as appropriate, with respect to smog certification. Existing law specifies that a certificate of compliance or noncompliance is valid for 90 days, except as provided.

This bill would delete the requirement that the DMV require a certificate of compliance or a certificate of noncompliance with respect to smog certification upon any transfer of ownership and registration of a motor vehicle.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44015 of the Health and Safety Code is
2 amended to read:
3 44015. (a) A licensed smog check station shall not issue a
4 certificate of compliance, except as authorized by this chapter, to
5 ~~any~~ a vehicle that meets the following criteria:
6 (1) A vehicle that has been tampered with.
7 (2) A vehicle identified pursuant to subparagraph (K) of
8 paragraph (3) of subdivision (b) of Section 44036. A vehicle
9 identified pursuant to subparagraph (K) of paragraph (3) of
10 subdivision (b) of Section 44036 shall be directed to the department
11 to determine whether an inadvertent error can explain the
12 irregularity, or whether the vehicle otherwise meets smog check
13 requirements, allowing the certificate for compliance to be issued,
14 or the vehicle shall be reinspected by a referee or another smog
15 check station.
16 (3) A vehicle that, prior to repairs, has been initially identified
17 by the smog check station as a gross polluter. Certification of a
18 gross polluting vehicle shall be conducted by a designated test-only
19 facility, or a test-and-repair station that is both licensed and
20 certified pursuant to Sections 44014 and 44014.2.
21 (4) A vehicle described in subdivision (c).
22 (b) If a vehicle meets the requirements of Section 44012, a smog
23 check station licensed to issue certificates shall issue a certificate
24 of compliance or a certificate of noncompliance.
25 (c) (1) A repair cost waiver shall be issued, upon request of the
26 vehicle owner, by an entity authorized to perform referee functions
27 for a vehicle that has been properly tested but does not meet the
28 applicable emission standards when it is determined that no
29 adjustment or repair can be made that will reduce emissions from
30 the inspected motor vehicle without exceeding the applicable repair
31 cost limit established under Section 44017 and that every defect
32 specified by paragraph (2) of subdivision (a) of Section 43204,
33 and by paragraphs (2) and (3) of subdivision (a) of Section 43205,
34 has been corrected. A repair cost waiver issued pursuant to this
35 paragraph shall be accepted in lieu of a certificate of compliance

1 for the purposes of compliance with Section 4000.3 of the Vehicle
2 Code. ~~No~~ A repair cost waiver shall *not* exceed two years' duration.
3 ~~No~~ A repair cost waiver shall *not* be issued until the vehicle owner
4 has expended an amount equal to the applicable repair cost limit
5 specified in Section 44017.

6 (2) An economic hardship extension shall be issued, upon
7 request of a qualified low-income motor vehicle owner, by an
8 entity authorized to perform referee functions, for a motor vehicle
9 that has been properly tested but does not meet the applicable
10 emission standards when it is determined that no adjustment or
11 repair can be made that will reduce emissions from the inspected
12 motor vehicle without exceeding the applicable repair cost limit,
13 as established pursuant to Section 44017.1, that every defect
14 specified in paragraph (2) of subdivision (a) of Section 43204, and
15 in paragraphs (2) and (3) of subdivision (a) of Section 43205, has
16 been corrected, that the low-income vehicle owner would suffer
17 an economic hardship if the extension is not issued, and that all
18 appropriate emissions-related repairs up to the amount of the
19 applicable repair cost limit in Section 44017.1 have been
20 performed.

21 (d) ~~No~~ A repair cost waiver or economic hardship extension
22 shall *not* be issued under any of the following circumstances:

23 (1) If a motor vehicle was issued a repair cost waiver or
24 economic hardship extension in the previous biennial inspection
25 of that vehicle. A repair cost waiver or economic hardship
26 extension may be issued to a motor vehicle owner only once for
27 a particular motor vehicle belonging to that owner. However, a
28 repair cost waiver or economic hardship extension may be issued
29 for a motor vehicle that participated in a previous waiver or
30 extension program prior to January 1, 1998, as determined by the
31 department. For waivers or extensions issued in the program
32 operative on or after January 1, 1998, a waiver or extension may
33 be issued for a motor vehicle only once per owner.

34 (2) Upon initial registration of all of the following:

35 (A) A direct import motor vehicle.

36 (B) A motor vehicle previously registered outside this state.

37 (C) A dismantled motor vehicle pursuant to Section 11519 of
38 the Vehicle Code.

39 (D) A motor vehicle that has had an engine change.

40 (E) An alternate fuel vehicle.

1 (F) A specially constructed vehicle.

2 (e) Except as provided in subdivision (f), a certificate of
3 compliance or noncompliance shall be valid for 90 days.

4 ~~(f) Excluding any vehicle whose transfer of ownership and~~
5 ~~registration is described in subdivision (d) of Section 4000.1 of~~
6 ~~the Vehicle Code, and except~~ Except as otherwise provided in
7 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code,
8 a licensed motor vehicle dealer shall be responsible for having a
9 smog check inspection performed on, and a certificate of
10 compliance or noncompliance issued for, every motor vehicle
11 offered for retail sale. A certificate issued to a licensed motor
12 vehicle dealer shall be valid for a two-year period, or until the
13 vehicle is sold and registered to a retail buyer, whichever occurs
14 first.

15 (g) A test may be made at any time within 90 days prior to the
16 date otherwise required.

17 SEC. 2. Section 4000.1 of the Vehicle Code is amended to
18 read:

19 4000.1. (a) Except as otherwise provided in subdivision (b);
20 ~~(e), or (d) or (c)~~ of this section, or subdivision (b) of Section 43654
21 of the Health and Safety Code, the department shall require upon
22 initial registration, ~~and upon transfer of ownership and registration,~~
23 of any motor vehicle subject to Part 5 (commencing with Section
24 43000) of Division 26 of the Health and Safety Code, a valid
25 certificate of compliance or a certificate of noncompliance, as
26 appropriate, issued in accordance with Section 44015 of the Health
27 and Safety Code.

28 (b) With respect to new motor vehicles certified pursuant to
29 Chapter 2 (commencing with Section 43100) of Part 5 of Division
30 26 of the Health and Safety Code, the department shall accept a
31 statement completed pursuant to subdivision (b) of Section 24007
32 in lieu of the certificate of compliance.

33 (c) For purposes of determining the validity of a certificate of
34 compliance or noncompliance submitted in compliance with the
35 requirements of this section, the definitions of new and used motor
36 vehicle contained in Chapter 2 (commencing with Section 39010)
37 of Part 1 of Division 26 of the Health and Safety Code shall control.

38 ~~(d) Subdivision (a) does not apply to a transfer of ownership~~
39 ~~and registration under any of the following circumstances:~~

1 ~~(1) The initial application for transfer is submitted within the~~
2 ~~90-day validity period of a smog certificate as specified in Section~~
3 ~~44015 of the Health and Safety Code.~~

4 ~~(2) The transferor is the parent, grandparent, sibling, child,~~
5 ~~grandchild, or spouse of the transferee.~~

6 ~~(3) A motor vehicle registered to a sole proprietorship is~~
7 ~~transferred to the proprietor as owner.~~

8 ~~(4) The transfer is between companies the principal business of~~
9 ~~which is leasing motor vehicles, if there is no change in the lessee~~
10 ~~or operator of the motor vehicle or between the lessor and the~~
11 ~~person who has been, for at least one year, the lessee's operator~~
12 ~~of the motor vehicle.~~

13 ~~(5) The transfer is between the lessor and lessee of the motor~~
14 ~~vehicle, if there is no change in the lessee or operator of the motor~~
15 ~~vehicle.~~

16 ~~(6) The motor vehicle was manufactured prior to the 1976~~
17 ~~model-year.~~

18 ~~(7) Except for diesel-powered vehicles, the transfer is for a~~
19 ~~motor vehicle that is four or less model-years old. The department~~
20 ~~shall impose a fee of eight dollars (\$8) on the transferee of a motor~~
21 ~~vehicle that is four or less model-years old. Revenues generated~~
22 ~~from the imposition of that fee shall be deposited into the Vehicle~~
23 ~~Inspection and Repair Fund.~~

24 ~~(e)~~

25 ~~(d)~~ The State Air Resources Board, under Part 5 (commencing
26 with Section 43000) of Division 26 of the Health and Safety Code,
27 may exempt designated classifications of motor vehicles from
28 subdivision (a) as it deems necessary, and shall notify the
29 department of that action.

30 ~~(f)~~

31 ~~(e)~~ Subdivision (a) does not apply to a motor vehicle ~~when if~~
32 an additional individual is added as a registered owner of the motor
33 vehicle.

34 ~~(g)~~

35 ~~(f)~~ For purposes of subdivision (a), ~~any~~ a collector motor vehicle,
36 as defined in Section 259, is exempt from those portions of the
37 test required by subdivision (f) of Section 44012 of the Health and
38 Safety Code; if the collector motor vehicle meets all of the
39 following criteria:

- 1 (1) Submission of proof that the motor vehicle is insured as a
2 collector motor vehicle, as shall be required by regulation of the
3 bureau.
- 4 (2) The motor vehicle is at least 35 model-years old.
- 5 (3) The motor vehicle complies with the exhaust emissions
6 standards for that motor vehicle's class and model year as
7 prescribed by the department; and the motor vehicle passes a
8 functional inspection of the fuel cap and a visual inspection for
9 liquid fuel leaks.